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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

CR 143/03

S.A.No. 106 /2003

APPELLANTS/DEFENDANTS : 1. Vinod Kumar Thawani, aged about 48 years, son of Mayaram, Vinod Electronic, Near Municipal Office, Champa, Tahsil- Champa, Distt: Janjgir, Champa.

2. Sachchanand Thawani, aged about 52 years, S/o. Mayaram Thawani, Seema General Store, Sadar Bazar, Champa, Tahsil – Champa, Distt. Janjgir, Champa.

P.R. No. 26/02 Presented by Shri K.M. Ahsan dated 31.01.03

VERSUS

RESPONDANT PLAINTIFF : Firm Ganeshilal Gulabchand, Partnership Firm, resident of Naila, Distt. Janjgir-Champa.

Second Appeal U/s. 106 C.P.C. against the order dated 29.1.2003 passed by Adl. Judge, Janjgir, in M.C.A. No. 16/2002 rejecting the application for setting aside exparte decree passed in C.S. No. 4-A/94 court of Civil Judge, Janjgir, dated 10.5.96.

Being aggrieved by the order dated 29.1.2003 passed by Adl. Judge, Janjgir in M.C.A. No. 16/2002 the appellants beg to prefer this appeal before this Hon'ble court.

FACTS OF THE CASE

The plaintiff firm filed a C.S. No. 4-A/94 in the court of Civil Judge, Class-I, Janjgir for ejectment from suit premises situated

XI-HC—78

(40)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R. 143/03 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	02.03.2005: - Shri K.M.Ansari, learned counsel for the applicants. Shri Rajeev Shrivastava, learned counsel for non-applicant. Heard on admission. The applicants had moved an application under Order 9 Rule 13 of the C.P.C. before the trial Court for setting aside the ex-parte decree which was rejected by the trial Court and against which the applicants moved miscellaneous civil appeal under Order 43 Rule 1(d) of C.P.C. and the learned Additional District Judge, Janjgir by the impugned order has dismissed the same and against this order, the applicants has preferred the instant civil revision. At this stage, learned counsel for the applicants seeks to withdraw this revision on the ground that the same is not maintainable in view of the proviso to Section 115 of the C.P.C. and in view of the judgments reported in *2003(6) SCC,659* in the matter of ***Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and others*** as well as in *2003(6) SCC, 675* in the matter of ***Surya Dev Rai Vs. Ram Chander Rai and others.*** In view of the submissions of learned counsel for the applicants, the revision is dismissed as not maintainable. However, learned counsel for the applicants prays for liberty to file appropriate proceedings available under law. Liberty as prayed is granted. **Sd/-** **Dhirendra Mishra** **Judge**	